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# Public Notice

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U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:

U.S. Army Corps of Engineers  
ATTN: Regulatory Branch  
1645 South 101st East Avenue  
Tulsa, OK 74128-4609

OKR2011935  
Public Notice No.

January 21, 2004  
Public Notice Date

February 20, 2004  
Expiration Date

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## **PURPOSE**

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

## **SECTION 10**

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## **SECTION 404**

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

## **NOTICE TO PUBLISHERS**

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
1645 SOUTH 101ST EAST AVENUE  
TULSA, OKLAHOMA 74128-4609

Application No. OKR2011935

JOINT PUBLIC NOTICE  
U.S. ARMY CORPS OF ENGINEERS (CORPS)  
AND  
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)  
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. The applicant proposes to relocate a portion of Skull Creek. The applicant plans to construct an interceptor/treatment trench in the existing channel of Skull Creek for the purpose of preventing petroleum products from periodically entering the creek.

Name of Applicant: Mr. Jeff Lux  
Kerr-McGee Chemical Worldwide, L.L.C.  
1001 East Deep Rock  
Cushing, OK 74023

Location: The proposed project is located in the Southwest 1/4 of Section 23, Township 18 North, Range 5 East, in Skull Creek, Payne County, Oklahoma. The project site can be found on the Yale, Oklahoma, 7.5 Minute USGS Quadrangle map.

Description of Work: The Kerr-McGee Cushing refinery operated petroleum storage facilities in the vicinity of the oil seep from 1956 to 1972. The applicant is required under a consent order executed by ODEQ to mitigate periodic seepage of petroleum hydrocarbon into Skull Creek. The applicant proposes to fill approximately 1,120 feet of stream channel with approximately 4,000 cubic yards of granular material (organically enriched gravel) placed along the outside bank. The remainder of the channel will be filled with approximately 8,000 cubic yards of compacted soils. This material will be compacted using conventional earthmoving equipment. The new excavated channel will be approximately 280 feet in length including a 20-foot wide channel bottom with 3:1 slopes. The applicant will place approximately 900 cubic yards of riprap and will place grass sod above the riprap in the new channel to provide stream bank stability and erosion control.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 5). The application is on file and may be viewed during normal working hours at the Tulsa District, U.S. Army Corps of Engineers, 1645 South 101st East Avenue, Tulsa, Oklahoma. If additional information is

desired, it may be obtained from Mr. Marcus Ware, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Branch, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Cultural Resources: The DE has consulted the National Register of Historic Places (Register), and it has been determined that there are no properties currently listed in the Register nor any properties which have been determined eligible for listing in the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which might be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 (Public Law 89-665), as amended, and 36 CFR 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

Environmental Considerations: Our preliminary determination is that the proposed activity will not affect listed Endangered Species or their critical habitat. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

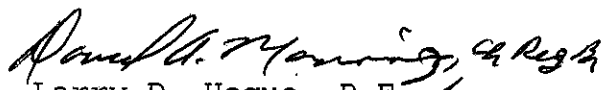
The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the National concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Comments concerning the issuance of this

permit should be received by the DE not later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program (NFIP) State Coordinator, we are sending a copy of this notice to the local flood plain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. The local Flood Plain Administrator is required to perform this review for all proposed development and maintain records of such review.

The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. Comments concerning water quality impacts will be forwarded to the ODEQ for consideration in issuing a water quality certification for the proposed project. A final decision will not be made on the permit application until a decision has been made on the required water quality certification pursuant to Section 401 of the Clean Water Act.

  
Larry D. Hogue, P.E.  
Chief, Planning, Environmental,  
and Regulatory Division

Enclosures